

Amendment No. 1 to HB1454

Fowlkes
Signature of Sponsor

AMEND Senate Bill No. 601*

House Bill No. 1454

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated Section 68-11-205 is amended by adding the following new subsection (c) and by redesignating present subsection (c) as subsection (d):

(c) No teaching institution shall be held vicariously liable for any act or omission of an intern, resident or fellow in the course of a training program of a medical school owned or operated by the state of Tennessee under a legal theory of implied or apparent agency, ostensible agency, or any other theory of vicarious liability other than the legal doctrine of respondeat superior. In determining whether the doctrine of respondeat superior is applicable, the fact that the intern, resident or fellow was in the teaching institution and providing treatment or services or otherwise caring for patients and was following the institution's bylaws, rules and regulations, policies, procedures, and protocols is insufficient, standing alone, to prove that the intern, resident or fellow was acting as the institution's agent.

SECTION 2. Tennessee Code Annotated Section 68-11-205 is further amended by adding the following new definitions, to be appropriately designated, to present subsection (c), redesignated as subsection (d) by this act::

() "Intern," "resident," or "fellow" mean any person receiving instruction through and acting within the scope of a training program of a medical school owned or operated by the state of Tennessee and who, in such capacity, receives compensation payable by the state of Tennessee and is entitled to individual immunity as an employee of the state of Tennessee pursuant to Tennessee Code Annotated § 9-8-307(h).

() "Teaching institution" means a hospital or mental health hospital, operating within the scope of an affiliation agreement with any medical school owned or operated by the state of Tennessee, and shall further include but not be limited to any sole

proprietorship, partnership, corporation, limited liability company, or other public or private entity that owns, controls, or is affiliated with any such institution.

SECTION 3. This act shall take effect on July 1, 2004, the public welfare requiring it and shall apply to all causes of actions arising on or after such date.